

1      **Remarks**

2            The examiner rejected claims 11-15 under 35 U.S.C. 103(a)  
3 as being unpatentable over U.S. Patent Number 6,407,798 B2  
4 Graves, et al, in view of U.S. Patent Number 6,164,018 Runge, et  
5 al.

6            The Graves, et al invention is for a theater that has  
7 changeable screens for purposes of showing different types of  
8 motion picture formats. There is no separation of viewing levels  
9 for different classes of patrons and only one single theater is  
10 described. This teaches away from the present invention in that  
11 the present invention is for purposes of showing different  
12 formatted motion pictures in different theaters. Graves, et al  
13 recognizes that different theater facilities are needed for  
14 different formats of motion pictures and suggest that the  
15 solution to this need is to provide for changeable screens in a  
16 single theater. The present invention also solves the need for  
17 different theater facilities for different formats of motion  
18 pictures but suggests that multiple theaters not multiple screens  
19 best answers this need.

20           Runge, et al, discloses a building with multiple theaters of  
21 a like kind located in the building. The theaters are for  
22 showing of a single kind of motion picture format and have a  
23 single mezzanine area with a single concession facility. Runge,  
24 et al recognizes the need for savings of the cost of construction  
25 of a theatrical structure and suggests several theaters in one  
26 single building would save on these costs. The present invention  
27 also solves this need but additionally provides for segregation  
of facilities for different classes of patrons and for the

1 showing of different formatted motion pictures in different  
2 theaters in one single building.

3 It is submitted that a *prima facie* case of obviousness has  
4 not been established. To establish a *prima facie* case of  
5 obviousness three basic criteria must be met. First there must  
6 be some suggestion or motivation, either in the references  
7 themselves or in the knowledge generally available to one of  
8 ordinary skill in the art, to modify the reference or to combine  
9 reference teachings. Second there must be a reasonable  
10 expectation of success. Finally, the prior art reference (or  
11 references when combined) must teach or suggest all the claim  
12 limitations. MPEP 2143.

13 There is a lack of motivation to combine references in the prior  
14 art:

15 In the case In Re: Rouffet 149 F.3d 1350, 1357, 47 U.S.P.Q.  
16 1453, 1457-58 (Fed.Cir. 1998) the court held in pertinent part:

17 There are three possible sources for a motivation  
18 to combine references: the nature of the problem to be  
19 solved, the teachings of the prior art, and the  
20 knowledge of persons of ordinary skill in the art.

21 The present invention solves three basic problems. First  
22 the present invention provides for the saving of construction  
23 costs (and ongoing structural costs). Second the present invention  
24 provides for different facilities for the showing of differently  
25 formatted motion pictures. Third the present invention provides  
26 for completely segregated facilities for different classes of  
27 patrons.

28 Runge, et al, discloses a building with multiple theaters in

1 order to solve the first problem, that of the saving of  
2 construction costs. However this patent fails to solve the  
3 problem of needing different formatted theaters in a single  
4 building so that the Runge invention only partially solves the  
5 problem of the savings in construction costs for a theater  
6 structure. The Graves invention does not solve the problem of  
7 savings in construction costs recognized by Runge because the  
8 Graves invention provides for only one theater structure in the  
9 building. However, the Graves invention does provide for  
10 different screening facilities in the same theater which  
11 inherently would reduce the costs of showing differently  
12 formatted motion pictures in one structure.

13 In summary the Runge invention recognizes the problem of  
14 saving costs of construction of a motion picture theater but only  
15 partially solves the problem in that Runge provides for the  
16 showing of only one format of motion pictures. This would  
17 require separate buildings which defeats the solution to the  
18 problem of savings in construction costs. Graves does not  
19 recognize the problem of construction costs for a theater but  
20 does partially solve the problem by providing for different  
21 formatted motion pictures to be shown in one single theater  
22 structure.

23 The present invention completely solves the problem of  
24 construction cost savings for a theater by providing for multiple  
25 theaters in one single structure and for facilities to also  
26 present differently formatted motion pictures in one single  
27 structure. A further savings in construction costs would also  
28 result for the provision in the present invention to complete

1 segregate viewing areas for different classes of patrons.

2       The Runge invention does not attempt to explicitly solve the  
3 high costs of theater construction problem so there is no  
4 teaching or motivation to solve this problem. The Graves  
5 invention does not completely solve the costs of theater  
6 construction problem in that the Graves invention fails to  
7 provide for multiple theaters in one building that show  
8 differently formatted motion pictures, nor does Graves provide  
9 for completely segregated viewing facilities for different  
10 classes of patrons. The Graves disclosure does not suggest or  
11 provide motivation for completely solving the problem of  
12 construction costs of a theater by including facilities in the  
13 building that can display differently formatted motion pictures.

14 There is no reasonable expectation of success in combining the  
15 two cited references:

16       The Graves invention provides for showing differently  
17 formatted motion pictures using different screens for the  
18 different formats in one theater. There is no reason to believe  
19 that this invention would successfully solve the problem of the  
20 showing of differently formatted motion pictures. The Runge  
21 invention provides for a building with several theaters for  
22 presenting motion pictures but there is no reason to believe that  
23 this structure would also permit the showing of differently  
24 formatted motion pictures successfully.

25 The prior art references do not teach or suggest all of the claim  
26 limitations:

27       The teaching or suggestion to make the claimed combination  
28 and the reasonable expectation of success must both be found in

1 the prior art, not in applicants disclosure. In Re Vaeck 947  
2 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed.Cir. 1991)

3 Nowhere in the prior art is there any suggestion for  
4 combining the two cited references. The teaching away from the  
5 present invention by Graves and the failure to recognize all of  
6 the problems solved by the present invention preclude the  
7 combining of the two cited references in any event.

8 Finally the breadth of the present claims are limited to the  
9 disclosures of the specification.

10 Clearly the present invention is the first to recognize that  
11 it is desirable to combine multiple theaters in one building and  
12 at the same time provide for the showing of different formatted  
13 motion pictures in different theaters. The present invention  
14 goes beyond this and also provides for completely separate  
15 facilities for different classes of patrons a feature not found  
16 in any known prior art.

17 Clearly the results produced by the present invention have  
18 long been sought in the prior art but prior to this invention  
19 have not been produced.

20 For all of the foregoing reasons it is submitted that the  
21 claims are in condition for allowance. Reconsideration of the  
22 rejections and objections is requested. Allowance of claims 11  
23 through 15 at an early date is requested.

24 Respectfully submitted.

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1 DATED: DEC 2 2003

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